

HOUSE JOURNAL
of the
SECOND EXTRAORDINARY SESSION
of the
ONE HUNDRED NINTH GENERAL ASSEMBLY
of the
STATE OF TENNESSEE
MONDAY, SEPTEMBER 12, 2016
FIRST LEGISLATIVE DAY

The House met at 2:00 p.m. and was called to order by Madam Speaker Harwell.

The proceedings were opened with prayer by Rep. K. Brooks.

Representative K. Brooks led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present..... 86

Representatives present were Akbari, Alexander, Beck, Brooks K., Butt, Byrd, Calfee, Camper, Carter, Casada, Clemmons, Coley, Cooper, Daniel, Doss, Dunlap, Dunn, Eldridge, Faison, Farmer, Favors, Fitzhugh, Forgety, Gilmore, Goins, Gravitt, Halford, Hardaway, Hawk, Hazlewood, Hicks, Hill M., Hill T., Holsclaw, Holt, Howell, Hulsey, Jenkins, Jernigan, Johnson, Jones, Kane, Keisling, Kumar, Lamberth, Littleton, Lollar, Love, Lundberg, Lynn, Marsh, McCormick, McDaniel, McManus, Miller, Mitchell, Moody, Parkinson, Pitts, Pody, Powell, Ragan, Reedy, Rogers, Sanderson, Sargent, Sexton C., Sexton J., Shaw, Shepard, Smith, Sparks, Stewart, Swann, Terry, Travis, Turner, Van Huss, Weaver, White D., Williams, Windle, Wirgau, Womick, Zachary, Madam Speaker Harwell -- 86

EXCUSED

The Speaker announced that the following members have been excused, pursuant to requests under **Rule No. 20**:

Representative H. Brooks; illness

Representative M. White; personal

Representative Todd; personal

Representative Carr; illness

Representative Matheny; personal

Representative Ramsey; illness

Representative Matlock; business

Representative DeBerry

Representative Towns

PRESENT IN CHAMBER

Rep. Powers was recorded as being present in the Chamber.

READING OF THE PROCLAMATION

Rep. McCormick moved to dispense with the reading of the Governor's Proclamation, which motion prevailed.

**COMMUNICATION
September 2, 2016**

The Honorable Beth Harwell
Speaker of the House
19 Legislative Plaza
Nashville, TN 37243

Dear Speaker Harwell,

I am transmitting with this letter a Proclamation signed by me calling an extraordinary session of the General Assembly at 2:00 p.m., Central Daylight Time, on September 12, 2016.

I look forward to working together to expeditiously address the matters discussed in this Proclamation in order to ensure that Tennessee receives our full share of federal-aid highway funding in federal fiscal year 2017.

Sincerely,

/s/ Governor Bill Haslam

PROCLAMATION BY THE GOVERNOR

WHEREAS, the State of Tennessee values public safety and is committed to establishing and enforcing zero-tolerance laws prohibiting driving under the influence; and

WHEREAS, 23 U.S.C. § 161 requires that states enact and enforce “a law that considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol”; and

WHEREAS, 23 C.F.R. § 1210.4(c) establishes five requirements that a state’s law must include to achieve compliance with 23 U.S.C. § 161; and

WHEREAS, Tennessee has consistently been in compliance with the requirements of 23 U.S.C. § 161 and the regulations promulgated thereunder; and

WHEREAS, Public Chapter No. 1030 was passed by the Tennessee General Assembly in April 2016; and

WHEREAS, Public Chapter No. 1030 amended Tennessee Code Annotated § 55-10-415, relating to driving under the influence; and

WHEREAS, previously, Tennessee Code Annotated § 55-10-415 established the offense of underage driving while impaired for a “person age sixteen (16) or over but under age twenty-one (21)” when that person drives or is in physical control of an automobile or other motor-driven vehicle with a blood alcohol concentration of more than 0.02 percent (0.02%); and

WHEREAS, Public Chapter No. 1030 strengthened the penalties for driving under the influence imposed upon persons eighteen (18) years of age or older, which had the effect of revising Tennessee Code Annotated § 55-10-415 to apply only to persons sixteen (16) years of age or older but less than eighteen (18) years of age such that persons eighteen (18) years of age or older but less than twenty-one (21) years of age are instead subject to Tennessee Code Annotated § 55-10-401, which establishes the offense of driving under the influence applicable to any person with a blood alcohol concentration of 0.08 percent (0.08%) or greater; and

WHEREAS, Public Chapter No. 1030 became effective July 1, 2016; and

WHEREAS, on September 2, 2016, the Governor was advised by the Secretary of the United States Department of Transportation that Tennessee Code Annotated § 55-10-415 no longer meets the requirements of 23 U.S.C. § 161 as a result of Public Chapter No. 1030; and

WHEREAS, the United States Department of Transportation and National Highway Traffic Safety Administration require compliance with 23 U.S.C. § 161 as of October 1, 2016, for purposes of determining the amount of federal-aid highway funding apportioned to each state for federal fiscal year 2017, and if the Department deems Tennessee noncompliant with 23 U.S.C. § 161 as of that date, the Department will withhold eight percent (8%) of Tennessee’s federal-aid highway apportionment, which totals approximately \$60 million dollars for federal fiscal year 2017; and

WHEREAS, if eight percent (8%) of Tennessee's federal-aid highway apportionment is withheld for federal fiscal year 2017 for failure to comply with 23 U.S.C. § 161 as of October 1, 2016, Tennessee forfeits that apportionment and may not recoup the forfeited amount; and

WHEREAS, because of the October 1, 2016 deadline enforced by the United States Department of Transportation, Tennessee would not be deemed compliant with 23 U.S.C. § 161 for federal fiscal year 2017 if the Tennessee General Assembly passes legislation in the next regular session convening in January 2017; and

WHEREAS, Tennessee does not agree with the determination of the United States Department of Transportation, and Tennessee's Department of Transportation, Governor, Attorney General, federal congressional delegation, and other state officials attempted to resolve the matter with the United States Department of Transportation and sought to find alternative solutions to maintain compliance with 23 U.S.C. § 161 short of calling the extraordinary session to which this proclamation pertains; and

WHEREAS, the Governor believes it is in the best interest of Tennessee to ensure that United States Department of Transportation concludes that the state's laws comply with 23 U.S.C. § 161 and the regulations promulgated thereunder.

NOW THEREFORE, I, Bill Haslam, Governor of the State of Tennessee, by virtue of the power and authority vested in me by Article III, Section 9 of the Tennessee Constitution, do hereby call the One Hundred Ninth General Assembly of the State of Tennessee to meet and convene in extraordinary session at the Capitol in Nashville at 2:00 p.m., Central Daylight Time, on Monday, September 12, 2016, for the following purposes:

- (1) Considering and acting upon legislation necessary to ensure that Tennessee law prohibiting an individual under the age of 21 from operating a motor vehicle while intoxicated or under the influence of alcohol maintains compliance with 23 U.S.C. § 161 and the regulations promulgated thereunder;
- (2) Considering and acting upon legislation to address any other instances of noncompliance or asserted noncompliance with federal statutes and regulations relating to federal-aid highway funding to be apportioned to Tennessee for federal fiscal year 2017;
- (3) Considering and acting upon legislation to make appropriations sufficient to provide the first year's funding for any act which receives final passage during the extraordinary session; and
- (4) Considering and acting upon legislation to make appropriations sufficient to pay the expenses of the extraordinary session of the General Assembly, including the expenses of carrying out any actions taken pursuant to this call.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Tennessee to be affixed at Nashville on this 2nd day of September, 2016.

/s/ Bill Haslam

ATTEST:

Tre Hargett
Secretary of State

ADOPTION OF TEMPORARY RULES

Rep. McDaniel moved that the current Rules and Procedures of the House of Representatives of the One Hundred Ninth General Assembly be adopted for the Extraordinary Session with the caveat that the following rules are adjusted as indicated so that business may flow easier through the committee process:

Rule No. 17: so that all congratulatory and memorializing resolutions can be placed directly on the next Consent Calendar;

Rule No. 44(b): The prefile rule which states that bills must be prefiled by 4:00 p.m. in order to be introduced and passed the following day is set aside so as to allow bills to be introduced as they are filed and be before the body; (Passed on first consideration will be determined as by the body.)

Rule No. 49: the 48-hour rule so that all bills moved from Calendar and Rules can be set on the next floor Calendar;

Rule No. 49: the 25 bill limit rule so that more than 25 bills may be placed on the Calendar for final consideration on any one day;

Rule No. 50: the 72-hour rule for posting the Consent Calendar, so that local bills and other bills and resolutions coming out of Calendar and Rules can be placed on the next Consent Calendar on a daily basis;

Rule No. 59: notice provisions so that all bills from the Senate with messages can be announced and/or automatically placed on the next Message Calendar;

Rule No. 60: so that notice of proposed amendments may be given until the start of Session on the day of consideration;

Rule No. 67: so that committee and subcommittee meetings can be held at times other than those specified in the House Weekly Schedule and with less than 72 hours notice;

Rule No. 71: the 24-hour rule requiring all amendments to be available to members 24 hours before consideration on the floor;

Rule No. 75: meeting time provision so that session can meet hours other than 9:00 a.m. to 12 noon and 2:00 p.m. to 7:00 p.m.;

Rule No. 83(1): so that all bills reported out of subcommittee can be heard on the next full committee calendar without waiting a week;

Rule No. 83(1): so that all bills reported out of committee can be heard in the next committee or subcommittee without waiting a week;

Rule No. 83(1): so that items in committee and subcommittee can be placed on the next calendar notwithstanding the Wednesday 3:30 deadline for placing bills on notice.

On motion of Rep. McDaniel the current Rules and Procedures of the House of Representatives of the One Hundred Ninth General Assembly were adopted as the Rules for the Second Extraordinary Session, with the caveat that the aforementioned rules are adjusted as indicated, with the following vote:

Ayes	67
Noes.....	15
Present and not voting.....	1

Representatives voting aye were: Alexander, Beck, Brooks K., Butt, Byrd, Calfee, Carter, Casada, Clemmons, Coley, Daniel, Doss, Dunn, Eldridge, Faison, Farmer, Favors, Forgety, Goins, Gravitt, Halford, Hawk, Hazlewood, Hicks, Hill M., Hill T., Holsclaw, Howell, Hulsey, Jenkins, Johnson, Kane, Keisling, Kumar, Lamberth, Littleton, Lollar, Lundberg, Lynn, Marsh, McCormick, McDaniel, McManus, Moody, Pitts, Pody, Powell, Ragan, Reedy, Sanderson, Sargent, Sexton C., Sexton J., Shepard, Smith, Sparks, Swann, Terry, Travis, Van Huss, Weaver, White D., Williams, Windle, Wirgau, Zachary, Madam Speaker Harwell -- 67

Representatives voting no were: Akbari, Cooper, Dunlap, Fitzhugh, Jernigan, Jones, Love, Miller, Mitchell, Parkinson, Rogers, Shaw, Stewart, Turner, Womick -- 15

Representatives present and not voting were: Camper -- 1

A motion to reconsider was tabled.

SELECT COMMITTEE APPOINTMENTS

Representative McCormick moved that the Speaker appoint a committee to notify the Governor that the House had perfected its organization and is ready to conduct business. The Speaker appointed Representatives Shepard, Hazlewood and Sanderson, with Rep. Shepard serving as Chair.

Representative McCormick moved that the Speaker appoint a committee to notify the Senate that the House had perfected its organization and is ready to conduct business. The Speaker appointed the following: Representatives Lundberg, Gilmore and Eldridge, with Rep. Lundberg serving as Chair.

BRIEF RECESS

On announcement of Speaker Harwell, the House stood in a brief recess pending the return of the select committees.

RECESS EXPIRED

The recess having expired, the House was called to order by Madam Speaker Harwell.

ROLL CALL DISPENSED WITH

On motion of Rep. McCormick, the roll call was dispensed with.

REPORTS OF SELECT COMMITTEES

Rep. Shepard reported to the House that the Governor had been notified that the House had perfected its organization and was ready to conduct business.

Rep. Lundberg reported to the House that the Senate had been notified that the House had perfected its organization and was ready to conduct business.

Senator Bell was recognized to inform the House that the Senate had completed its organization and was ready to conduct business.

RESOLUTIONS

Pursuant to **Rule No. 17**, the following resolutions were introduced and placed on the Consent Calendar for September 13, 2016:

House Resolution No. 1 -- Memorials, Retirement - Jennifer Todd. by *Beck.

House Joint Resolution No. 1 -- Memorials, Professional Achievement - Corderyl J. Martin, Tennessee Teacher of the Year finalist. by *Butt.

House Joint Resolution No. 2 -- Memorials, Professional Achievement - Sam D. Kennedy, State Open Government Hall of Fame. by *Butt.

House Joint Resolution No. 3 -- Memorials, Professional Achievement - Dr. Tina J. Weatherford, Tennessee Principal of the Year finalist. by *Butt.

House Joint Resolution No. 4 -- Memorials, Recognition - John T. Marshall. by *Pody.

House Joint Resolution No. 5 -- Memorials, Personal Achievement - Austin Creech, Eagle Scout. by *Jenkins.

INTRODUCTION OF BILLS

On motion, the following bills were introduced and passed first consideration:

House Bill No. 1 -- Alcohol Offenses, Motor Vehicles - As introduced, reinstates prior law regarding offense of underage driving while impaired to ensure compliance with federal zero-tolerance laws; clarifies that the offense applies to persons under 21 years of age who drive while having a blood or breath alcohol concentration of 0.02 percent or more. - Amends TCA Section 55-10-409; Section 55-10-415 and Chapter 1030 of the Public Acts of 2016. by *McCormick, *Lamberth.

House Bill No. 2 -- Appropriations - As introduced, makes appropriations for the purpose of defraying the expenses of the second extraordinary session of the 109th General Assembly. by *McCormick.

UNFINISHED BUSINESS

NOTICE

Rep. Lynn notified the House of her intent to make a motion to expel Representative Jeremy Durham of the 65th Representative District from his seat as a member of the House of Representatives of the 109th General Assembly of the State of Tennessee for disorderly behavior as described in the final report of the Article II, Section 12 Ad Hoc Committee pursuant to Article II, Section 12 of the Constitution of the State of Tennessee. The motion will be made Tuesday, September 13, 2016 under Unfinished Business with the intent that Rep. Durham be afforded the opportunity to address this body at the beginning of the debate on the motion to expel.

PRESENT IN CHAMBER

Rep. Towns was recorded as being present in the Chamber.

ROLL CALL

The roll call was taken with the following results:

Present..... 87

Representatives present were Akbari, Alexander, Beck, Brooks K., Butt, Byrd, Calfee, Camper, Carter, Casada, Clemmons, Coley, Cooper, Daniel, Doss, Dunlap, Dunn, Eldridge, Faison, Farmer, Favors, Fitzhugh, Forgety, Gilmore, Goins, Gravitt, Halford, Hardaway, Hawk, Hazlewood, Hicks, Hill M., Hill T., Holsclaw, Holt, Howell, Hulsey, Jenkins, Jernigan, Johnson, Jones, Kane, Keisling, Kumar, Lamberth, Littleton, Lollar, Love, Lundberg, Lynn, Marsh, McCormick, McDaniel, McManus, Miller, Mitchell, Moody, Parkinson, Pitts, Pody, Powell, Powers, Ragan, Reedy, Rogers, Sanderson, Sargent, Sexton C., Sexton J., Shaw, Shepard, Smith, Sparks, Stewart, Swann, Terry, Towns, Travis, Turner, Van Huss, Weaver, White D., Windle, Wirgau, Womick, Zachary, Madam Speaker Harwell -- 87

RECESS

On motion of Rep. McCormick, the House stood in recess until 9:30 a.m., Tuesday, September 13, 2016.